IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5752 OF 2005

Shri Shirish Ranganath Sule .. Petitioner

Vs.

Shri Nathu Laxman Sawant and Ors...Respondents

Mr.Ambar Joshi for the petitioner

Mr.Deepak C.Nair i/b M/s.Deepak & Co. for respondent no.1

CORAM : S.U.KAMDAR, J
DATED : 2ND DECEMBER, 2005

P.C.:

1. The present petition challenges the order passed by the Trial Court rejecting to grant the application filed below Exhibit 76 for amendment of the written statement on the ground that the trial court has concluded the recording of evidence and the matter is fixed for argument. The suit is of 1999 and prior to Amending Act 2002.

2. It is now well settled that law prior to amendment was that amendment can be granted at any stage including at the appellate stage. In that

view of the matter, order passed by the authority below Ex.76 dt.24.6.05 is unsustainable in law and the same is required to be quashed and set aside.

3. Order dt.24.6.05 is accordingly set aside and amendment is granted. Amendment to be carried out within two weeks. The learned counsel for the petitioner states that he will not lead any oral evidence in support of the additional averments incorporated by amendment. However, the Civil Judge, Junior Division, Pali will hear the arguments on the additional averments incorporated by the amendment before passing final orders in the present matter. Petition disposed of accordingly. No order as to costs.